

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte WALTER W. MOSHER, JR.

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Appeal No. 1999-0758  
Application 08/784,180

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ON BRIEF

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Before COHEN, FRANKFORT and STAAB, Administrative Patent Judges.

COHEN, Administrative Patent Judge.

**DECISION ON APPEAL**

This is an appeal from the refusal of the examiner to allow claims 1 through 3, all of the claims remaining in the application, as amended subsequent to the final rejection.

Appellant's invention pertains to an identification bracelet. A basic understanding of the invention can be derived from a reading of exemplary claim 1, a copy of which appears in the APPENDIX to the brief (Paper No. 16).

As evidence of anticipation and obviousness, the examiner has applied the documents listed below:

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Solon	4,991,337	Feb. 12, 1991
McKillip	5,145,211	Sep. 8, 1992

The following rejections are before us for review.

Claim 2 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 1 and 3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Solon.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Solon in view of McKillip.

The full text of the examiner's rejections and response to the argument presented by appellant appears in the answer (Paper No. 17), while the complete statement of appellant's argument can be found in the brief (Paper No. 16).

### **OPINION**

In reaching our conclusion on the issues raised in this appeal, this panel of the board has carefully considered appellant's specification and claims, the applied teachings,<sup>1</sup> and the respective viewpoints of appellant and the examiner. As a consequence of our review, we make the determinations which follow.

#### **The indefiniteness issue**

We cannot sustain the rejection of claim 2 under 35 U.S.C. § 112, second paragraph, as being indefinite.

This panel of the board fully comprehends the examiner's well stated assessment of the claim language at issue (answer, pages 3 and 4), but discerns that claim 2 is definite in meaning for the reasons articulated below.

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<sup>1</sup> In our evaluation of the applied prior art, we have considered all of the disclosure of each document for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

Claim 1 requires that, in an identification bracelet, there be an information storing area on an elongated strip. The claim goes on to make it apparent that the information storing area is “for the receipt of information”. Thus, the information storing area of the bracelet is intended to receive and, accordingly, be capable of receiving information. Claim 2, dependent from claim 1, further restricts the information storing area to one intended to receive and be capable of receiving machine readable information. The antecedent basis for the language of claim 2 is the recitation of “information” set forth in claim 1. The circumstance that the antecedent basis in claim 1 appears in an intended use “for” clause does not prevent the language of claim 2 from having an appropriate antecedent basis, as indicated. Thus, we conclude that the language of claim 2 is not indefinite and the rejection thereof under 35 U.S.C. § 112, second paragraph, is not sound.

### **The anticipation rejection**

We sustain the rejection of claims 1 and 3 under 35 U.S.C. § 102(b) as being anticipated by Solon.

Like the examiner (answer, page 3), we find that the claimed identification bracelet with “exposed pressure sensitive adhesive fastening means” (claim 1) on one of the extremities of an elongated flexible strip is anticipated by the identification

bracelet of Solon. Clearly, the identification bracelet of Solon (Figs. 2 and 3), in use, evidences “exposed pressure sensitive adhesive fastening means” 40, 46 when it is being applied to the limb of a child, i.e., after conventional release liners 44, 50 have been removed.

Appellant’s argument (brief, pages 10 through 13) fails to persuade us of error on the part of the examiner in rejecting appellant’s claims 1 and 3 under 35 U.S.C. § 102(b). Contrary to appellant’s point of view (brief, page 12), Solon does, in fact, teach “an essential element of the invention which is an exposed pressure sensitive adhesive fastener”, as explained above. The circumstance that appellant does not teach a conventional release liner and that Solon exemplifies conventional practice in the manufacture of a bracelet with a removable release liner (brief, page 11) does in no way detract from the fact that appellant’s claimed bracelet, when ready for application to a user, corresponds identically to the bracelet of Solon, when ready for application to a user. Thus, the examiner’s anticipation rejection is sound.

**The obviousness rejection**

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Solon in view of McKillip

McKillip discloses an air baggage (identification) tag with (machine readable) bar codes thereon (Fig. 1) and a release liner 22 covering an adhesive material.<sup>2</sup>

In our opinion, it would have been obvious to one having ordinary skill in the art, from a combined assessment of the teachings of Solon and McKillip, to utilize machine readable information on the identification bracelet of Solon, following the suggestion therefor derivable from the teaching of McKillip, to gain the art recognized and self-evident advantages thereof.

We are not convinced by appellant's argument (brief, pages 13 through 15) that the rejection under 35 U.S.C. § 103(a) is unsound. Notwithstanding appellant's conclusion to the contrary (brief, page 13), we determined that the Solon document teaches the claimed feature of an exposed pressure sensitive adhesive fastener, as

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<sup>2</sup> It is apparent to us that McKillip is basically being relied on for a teaching of what appellant has already acknowledged in the background section of the specification (page 3), i.e., bar coding (machine readable information) on an identification bracelet is a well known expedient in the art.

explained, supra. Further, and again contrary to appellant's point of view (brief, page 15), we found ample suggestion in the applied prior art for the modification of the Solon teaching to include machine readable information. Appellant's focus (brief, pages 13 and 14) upon Solon's method of manufacture vis-a-vis appellant's method of manufacture is simply misplaced since at issue in this appeal is the patentability of an article of manufacture, i.e., an identification bracelet, not a process or method of manufacture.

In summary, this panel of the board has not sustained the rejection based upon 35 U.S.C. § 112, second paragraph, but has sustained the respective rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a).

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The decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal  
may be extended under 37 CFR § 1.136(a).

**AFFIRMED**

IRWIN CHARLES COHEN	)	
Administrative Patent Judge	)	
	)	
	)	BOARD OF PATENT
CHARLES E. FRANKFORT	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
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LAWRENCE J. STAAB	)	
Administrative Patent Judge	)	

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